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Republic of Liberia

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

ST. LUKE SCHOOL OF MEDICINE;  
DR. JERROLL B.R. DOLPHIN and  
DR. ROBERT FARMER on behalf of  
himself and all others similarly  
situated,

Plaintiffs,

v.

REPUBLIC OF LIBERIA; MINISTRY  
OF HEALTH, a Liberian  
Governmental Agency; LIBERIAN  
MEDICAL BOARD, a Liberian  
Governmental Agency; NATIONAL  
COMMISSION ON HIGHER  
EDUCATION, a Liberian  
Governmental Agency; NATIONAL  
TRANSITIONAL LEGISLATIVE  
ASSEMBLY, a Liberian Governmental  
Agency; DR. ISAAC ROLAND;  
MOHAMMED SHERIFF; DR.  
BENSON BARH; BR. GEORGE  
GOLLIN; EDUCATION  
COMMISSION FOR FOREIGN  
MEDICAL GRADUATES, a  
Pennsylvania Non-Profit organization;  
FOUNDATION FOR  
ADVANCEMENT OF  
INTERNATIONAL EDUCATION  
AND RESEARCH, a Pennsylvania  
Non-Profit Organization;  
UNIVERSITY OF ILLINOIS-  
URBAN, an Illinois Institution of  
Higher Learning; STATE OF  
OREGON, Office of Degree  
Authorization,

Defendants.

CASE NO. 10-CV-1791 RGK (SHx)

[PROPOSED] ORDER RE DEFENDANT  
REPUBLIC OF LIBERIA'S MOTION  
TO DISMISS PLAINTIFFS' FIRST  
AMENDED COMPLAINT PURSUANT  
TO FEDERAL RULES OF CIVIL  
PROCEDURE 8, 12(b)(1), AND 12(b)(6)

*[FILED CONCURRENTLY WITH  
NOTICE OF MOTION; MEMORANDUM  
OF POINTS AND AUTHORITIES; AND  
DECLARATION OF AMANDA J.  
KLOPF]*

[Fed. R. Civ. P. 8, 12(b)(1), & 12(b)(6)]

Date: August 16, 2010

Time: 9:00 a.m.

Judge: Hon. R. Gary Klausner

1           The Republic of Liberia, by and through its attorneys Latham & Watkins  
2 LLP, has moved to dismiss Plaintiffs' First Amended Class Action Complaint for  
3 Trade Libel, False Imprisonment, Negligence, Violations of Due Process,  
4 Violations of Equal Protection, Conversion, Conspiracy to Commit Civil Rights  
5 Violations, Intentional Infliction of Emotional Distress, Negligent Infliction of  
6 Emotional Distress, Loss of Consortium, Libel, and Intentional interference with  
7 Prospective Business Advantage (the "Complaint") in the above-entitled action for  
8 lack of subject matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil  
9 Procedure, for failure to state a claim under Rule 12(b)(6) of the Federal Rules of  
10 Civil Procedure and for failure to plead with particularity as required under Rule 8  
11 of the Federal Rules of Civil Procedure. The Court, having considered the  
12 Republic of Liberia's motion, the pleadings and other papers of the parties, the oral  
13 arguments of counsel, and good cause appearing therefore, hereby grants the  
14 Republic of Liberia's motion to dismiss with prejudice for the following reasons:

15           1. This Court lacks subject matter jurisdiction over the Complaint as it  
16 pertains to the Republic of Liberia because the Republic of Liberia is a sovereign  
17 nation, and thus is entitled to immunity from suit in United States District Courts  
18 under the Foreign Sovereign Immunities Act. *See* 28 U.S.C. § 1604; *see also*  
19 *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 439 (1989).

20           2. Plaintiffs' Complaint fails to state a claim upon which relief can be  
21 granted because it fails to state a claim under the Alien Tort Statute and because  
22 Plaintiffs fail to allege either a violation of international law or their alien status.  
23 28 U.S.C. § 1350; *see Trajano v. Marcos*, 978 F.2d 493, 499 (9th Cir. 1992).

24           3. Plaintiffs' Complaint fails to state a claim upon which relief can be  
25 granted for trade libel because it fails to allege each of the requisite elements, and  
26 because the claim is time barred. *See Polygram Records, Inc. v. Superior Court*,  
27 170 Cal. App. 3d 543, 548 (1985); CAL. CIV. PROC. CODE § 339(1).

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1           4.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
2 granted for libel because it fails to allege each of the requisite elements, and  
3 because the claim is time barred. CAL. CIV. CODE § 45; CAL. CIV. PROC. CODE §  
4 340(3).

5           5.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
6 granted for intentional interference with prospective business advantage because it  
7 fails to allege each of the requisite elements, and because the claim is time barred.  
8 *See Della Penna v. Toyota Motor Sales, U.S.A.*, 11 Cal. 4th 376, 380 (1995); CAL.  
9 CIV. PROC. CODE § 339(1).

10          6.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
11 granted for false imprisonment because it fails to allege each of the requisite  
12 elements, and because the claim is time barred. *See Wilson v. Houston Funeral*  
13 *Home*, 42 Cal. App. 4th 1124, 1135 (1996); CAL. CIV. PROC. CODE § 340(c).

14          7.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
15 granted for negligence because it fails to allege each of the requisite elements, and  
16 because the claim is time barred. *See Ladd v. County of San Mateo*, 12 Cal. 4th  
17 913, 917 (1993); CAL. CIV. PROC. CODE § 335.1.

18          8.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
19 granted for loss of consortium because it fails to allege each of the requisite  
20 elements, and because the claim is time barred. *See Hahn v. Mirda*, 147 Cal. App.  
21 4th 740, 746 n.2 (2007); CAL. CIV. PROC. CODE § 335.1.

22          9.     Plaintiffs' Complaint fails to state a claim upon which relief can be  
23 granted for conversion because it fails to allege each of the requisite elements, and  
24 because the claim is time barred. *Shopoff & Cavallo LLP v. Hyon*, 167 Cal. App.  
25 4th 1489, 1507 (2008); CAL. CIV. PROC. CODE § 338(c).

26          10.    Plaintiffs' Complaint fails to state a claim upon which relief can be  
27 granted for violation of due process because it fails to allege a constitutionally-  
28 protected property interest and because Plaintiffs have not made a showing that

1 they were denied adequate procedural protections. *See Hufford v. McEnaney*, 249  
2 F.3d 1142, 1150 (9th Cir. 2001).

3 11. Plaintiffs' Complaint fails to state a claim upon which relief can be  
4 granted for violation of equal protection because it fails to allege any protected  
5 classification, does not allege that Plaintiffs are part of any protected class and  
6 does not assert the impingement of the exercise of a fundamental right. *See*  
7 *Schweiker v. Wilson*, 450 U.S. 221, 230 (1981).

8 12. Plaintiffs' Complaint fails to state a claim upon which relief can be  
9 granted for conspiracy to commit civil rights violations because it fails to allege  
10 each of the requisite elements. *See Butler v. Elle*, 281 F.3d 1014, 1028 (9th Cir.  
11 2002).

12 13. Plaintiffs' Complaint fails to state a claim upon which relief can be  
13 granted for intentional infliction of emotional distress because it fails to allege each  
14 of the requisite elements, and because the claim is time barred. *See Huntingdon*  
15 *Life Sciences v. Stop Huntingdon Animal Cruelty USA*, 129 Cal. App. 4th 1228,  
16 1259 (2005); CAL. CIV. PROC. CODE § 335.1.

17 14. Plaintiffs' Complaint fails to state a claim upon which relief can be  
18 granted for negligent infliction of emotional distress because it fails to allege each  
19 of the requisite elements, and because the claim is time barred. *See Marlene F. v.*  
20 *Affiliated Psychiatric Medical Clinic, Inc.*, 48 Cal. 3d 583, 588 (1989); CAL. CIV.  
21 PROC. CODE § 335.1.

22 15. Plaintiffs' Complaint violates Federal Rule of Civil Procedure 8  
23 because it does not contain the requisite simple, concise, or plain statement. *See*  
24 Fed. R. Civ. P. 8(a)(2); Fed. R. Civ. P. 8(d)(1); *see also Sherman v. Henderson*,  
25 2010 U.S. App. LEXIS 11336, \*2 (9th Cir. June 3, 2010).

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1 For the foregoing reasons, Defendant Republic of Liberia's Motion to  
2 Dismiss Plaintiffs' First Amended Complaint is GRANTED without leave to  
3 amend, and this action is hereby DISMISSED WITH PREJUDICE.

4 IT IS SO ORDERED.

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6 Dated: \_\_\_\_\_

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Hon. R. Gary Klausner

1 Respectfully submitted,

2 LATHAM & WATKINS LLP

3 Manny A. Abascal

4 Amy C. Quartarolo

5 Amanda J. Klopf

6 By /s/ Amanda J. Klopf

7 Attorneys for Defendant Republic of Liberia

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